

Appl. No. 10/726,498
Amendment dated February 14, 2006
Reply to Office Action of December 22, 2005

REMARKS

In the December 22, 2005 Office Action, claims 1, 2, 6 and 16-18 stand rejected in view of prior art, while claims 3, 5, 7-15 and 19-24 were indicated as containing allowable subject matter. Claims 1-24 also were rejected for failing to indicate and claim particularly and distinctly the subject matter that Applicants regard as the invention. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the December 22, 2005 Office Action, Applicants have amended independent claims 1, 17 and 18 as indicated above. Moreover, Applicants have amended claims 1, 3, 4, 7, 8, 10-12, 15 and 17-19 to overcome the indefiniteness rejection. Claims 9, 13, 20-23 have been amended to correct typographical errors in these claims. Furthermore, Applicants have canceled claim 5 and added new independent claim 25 and new dependent claims 26-29 as indicated above. Applicants wish to thank the Examiner for the indication of allowable subject matter and the thorough examination of this application. Thus, claims 1-4 and 6-29 are pending, with claims 1, 17, 18 and 25 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Claim Rejections - 35 U.S.C. §112

In the numbered paragraph 1 of the Office Action, claims 1-24 were rejected under 35 U.S.C. §112, second paragraph. In response, Applicants have amended claims 1, 3, 4, 7, 8, 10-12, 15 and 17-19 to clarify claims 1-24.

Specifically, regarding claims 1, 8 and 17-19, Applicants have amended the phrase "vehicle-object relationship between a traveling speed of the vehicle and a distance the object and the vehicle that is corrected using a non-linear traveling speed based correction

Appl. No. 10/726,498
Amendment dated February 14, 2006
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coefficient" to read "vehicle-object relationship between the vehicle and the object that is corrected using a non-linear traveling speed based correction coefficient" as suggested in the Office Action.

Regarding claims 1, 3, 4, 7, 15 and 17, Applicants have amended the phrase "configured to set a (or the) method" to read "configured to set a (or the) control operation" as suggested in the Office Action. Moreover, in claim 17, the word "section" has been replaced with the word "means" to avoid antecedent basis problem as suggested in the Office Action.

Regarding claims 10 and 12, Applicants have amended the phrase "a suspension characteristic setting" to read "the suspension characteristic setting", and amended the phrase "a steering avoidance direction force" in claim 11 to read "the steering avoidance direction force" as suggested in the Office Action. Moreover, Applicants noticed the similar problems in claims 21-23, and thus, corrected the errors in these claims.

Applicants believe that the claims now comply with 35 U.S.C. §112, second paragraph. Withdrawal of the rejections is respectfully requested.

Rejections - 35 U.S.C. § 102

In the numbered paragraphs 2-3 of the Office Action, claims 1-2, 6 and 16-18 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0067219 to Seto et al. (hereinafter "Seto et al. publication"). In response, Applicants have amended independent claims 1, 17 and 18 to clearly define the present invention over the prior art of record.

In particular, independent claims 1, 17 and 18 now recite setting a control operation to determine whether the object can be avoided by at least one of steering and braking based on at least one of the followings:

- 1) a **suspension characteristic** of the vehicle based on a suspension characteristic setting,
- 2) a steering avoidance direction force that will be generated in the steering avoidance direction should the object detected in the front of the vehicle by the forward object detecting section be avoided by steering with the steering avoidance direction force being calculated based on **a longitudinal force and a load acting on wheels** of the vehicle,
- 3) **an accelerator pedal release deceleration** that will result should an **accelerator pedal be released**, and
- 4) a vehicle-object relationship between the vehicle and the object that is corrected using a **non-linear traveling speed based correction coefficient**.

Clearly, this structure now recited in independent claims 1, 17 and 18 is **not** disclosed or suggested by the Seto et al. publication or any other prior art of record.

The Seto et al. publication clearly **fails** to disclose or suggest setting a control operation to determine whether the object can be avoided by at least one of steering and braking based on a **suspension characteristic** of the vehicle or a vehicle-object relationship between the vehicle and the object that is corrected using a **non-linear traveling speed based correction coefficient**.

Moreover, in the Seto et al. publication, the lateral forces (YF and YR) generated in the wheels are calculated basically based on the speed of the vehicle and the steering angle (please see equations (3) and (4) of the Seto et al. publication). Thus, the Seto et al. publication **fails** to disclose or suggest calculating the steering avoidance direction force based on **a longitudinal force and a load acting on wheels** of the vehicle as now recited in independent claims 1, 17 and 18.

Furthermore, the Seto et al. publication merely discloses using a deceleration obtained when **braking by depressing the brake pedal** for avoiding the collision in determining whether the collision can be avoided by braking. Therefore, the Seto et al. publication **fails** to disclose or suggest the determining **an accelerator pedal release deceleration that will**

Appl. No. 10/726,498
Amendment dated February 14, 2006
Reply to Office Action of December 22, 2005

result should an accelerator pedal be released as now recited in independent claims 1, 17 and 18.

It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose ***each*** and ***every*** element of the claim within the reference. Therefore, Applicants respectfully submit that independent claims 1, 17 and 18, as now amended, are not anticipated by the prior art of record. Withdrawal of this rejection is respectfully requested.

Moreover, Applicants believe that dependent claims 2, 6 and 16 are also allowable over the prior art of record in that they depend from independent claim 1, and therefore are allowable for the reasons stated above. Also, dependent claims 2, 6 and 16 are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not anticipate independent claim 1, neither does the prior art anticipate the dependent claims.

Applicants respectfully request withdrawal of the rejections.

Allowable Subject Matter

In the numbered paragraph 4 of the Office Action, claims 3, 5, 7-15 and 19-24 were indicated as containing allowable subject matter. Applicants wish to thank the Examiner for this indication of allowable subject matter and the thorough examination of this application. As discussed above, Applicants believe independent claims 1 and 18, now amended, are allowable over the prior art of record. Thus, Applicants believe dependent claims 3, 5, 7-15 and 19-24 are also allowable over the prior art of record in that they depend from independent claim 1 or 18, and therefore are allowable for the reasons stated above. Also, dependent claims 3, 5, 7-15 and 19-24 are further allowable because they include additional limitations that are indicated as allowable subject matter.

Appl. No. 10/726,498
Amendment dated February 14, 2006
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New Claims

Applicants have added new independent claim 25 and new dependent claims 26-29 in this Amendment as indicated above. Applicants believe new claims 25-29 are allowable over the prior art of record.

More specifically, new independent claim 25 recites determining if the object can be avoided by steering using a variable steering avoidance threshold value calculated based on a vehicle-object relationship between the vehicle and the object with the variable steering avoidance threshold value being *adjusted using a non-linear traveling speed based correction coefficient*. Clearly, this arrangement is *not* disclosed or suggested by the Seto et al. publication or any prior art of record. Accordingly, new independent claim 25 is believed to be allowable.

Moreover, Applicants believe that dependent claims 26-29 are also allowable over the prior art of record in that they depend from new independent claim 25, and therefore are allowable for the reasons stated above. Also, dependent claims 26-29 are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest new independent claim 25, neither does the prior art disclose or suggest the dependent claims.

Prior Art Citation

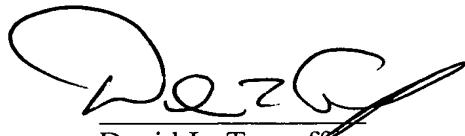
In the Office Action, additional prior art references were made of record. Applicants believe that these references do not render the claimed invention obvious.

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-4 and 6-29 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Appl. No. 10/726,498
Amendment dated February 14, 2006
Reply to Office Action of December 22, 2005

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Dated: 2-14-06

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